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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,021	11/04/2003	Rex Vandenberg	3340	6501

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,021

Applicant(s)

VANDENBERG, REX

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/515,912.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,7,9-14,16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eichenberger in view of Warburton et al. and further in view of Davina. Regarding claims 1 and 10 Eichenberger US 4,459,075 teaches a bale carrier with a loading arm comprising:

a frame member (32) with a proximal and a distal end;

said frame member pivoting about said proximal end;

means (35) for rotating said frame member;

a second member (33a-e) pivotally attached to said frame member;

a means (36) for pivoting said second member;

grasping means (26,27) connected to said second member;

said grasping means rotating about an axis that is parallel to said longitudinal axis of said bale carrier. Eichenberger further teaches other undisclosed attachment schemes where the arm may be mounted for reorientation of the bales, they do not teach the grasping means as pivoting about an axis perpendicular to the longitudinal axis of the bale carrier or a support leg for the grasping device.

Warburton et al. US 5,288,193 teaches a bale carrier with an articulated arm comprising :

a first arm (32) pivotally attached to the bale carrier;  
a grasper for picking up hay bales;  
wherein said grasper pivots about an axis (54) that is perpendicular to the bed of said bale carriers longitudinal axis. They do not teach a support leg for the device.

Davina US 5,725,346 teaches a hay loading trailer comprising:  
a trailer (12) for holding a plurality of hay bales;  
a grasping arm (24) for picking up said bales from a ground surface;  
said arm pivotally mounted such that its axis of rotation is perpendicular to the longitudinal axis of the trailer;  
support legs (170) for stabilizing the trailer during loading of the hay bales.

It would have been obvious to one of ordinary skill in the art, at the time of invention to pivot the grasper taught by Eichenberger as taught by Warburton et al. in order to easily reposition the bales being loaded onto the bale carrier and to further provide stabilizers as taught by Davina in order to support the device during loading thereby decreasing the chance of tipping the device.

Regarding claims 2 and 11 Eichenberger further teaches that the means for grasping the bale is a pair of paddles (26,27) with an open position and a closed bale grasping position and a means (41) for moving one of said paddles.

Regarding claims 3 and 12 Eichenberger also teaches that said paddles extend in a manner wherein the bale carrier may be moved forward to position a bale within the grasping device.

Regarding claims 4 and 13 Eichenberger further teaches that the means for moving the paddle is a hydraulic cylinder.

Regarding claims 5,7,14 and 16 Eichenberger also teach the first member (32) is moved by a hydraulic cylinder (35) via a lever arm (32b), and said second member (33a-e) is moved by a hydraulic cylinder (36) connected to a lever arm.

Regarding claims 9 and 18 Eichenberger also teaches moving the grasping means via a hydraulic cylinder (41) and an attached lever arm (42).

Claims 6,8,15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eichenberger and Warburton et al. as applied to claims 1 and 10 above, and further in view of Van Dusen. Eichenberger and Warburton et al. teach the limitations of claims 1 and 10 as above they do not teach the device as using a motor and chain actuation system. Van Dusen US 4,242,028 teaches an actuation system for rotating an object about a pivot point comprising an orbit motor with a chain (66). It would have been obvious to one of ordinary skill in the art, at the time of invention to rotate the system taught by Eichenberger and Warburton et al. with an electric motor as taught by Van Dusen as it may not be practical to provide hydraulics on all bale carriers whereas electrical power is a given on most if not all types of vehicles that can be used to pull the bale carrier.

Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham in view of Eichenberger in view of Warburton et al. and further in view of Davina. Graham US 5,899,652 teaches a bale carrier comprising:

a front and a back longitudinally opposed ends;

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a pivot deck (25) pivotally engaged with the rear end of said carrier;

a means for pivoting said deck from a substantially coplanar position to a perpendicular position relative to said carrier;

bale retaining members (66) mounted on said deck;

a means (44) for moving bales along said retaining means;

means (34) for moving bales along both the carrier and the length of the pivot deck;

a loading means for placing bales upon the carrier. Graham does not teach the means for moving the bales as being a chain drive or a multiple frame system for the loading arm or a support leg.

Eichenberger teaches a bale carrier with a loading arm comprising:

a frame member (32) with a proximal and a distal end;

said frame member pivoting about said proximal end;

means (35) for rotating said frame member;

a second member (33a-e) pivotally attached to said frame member;

a means (36) for pivoting said second member;

grasping means (26,27) connected to said second member;

said grasping means rotating about an axis that is parallel to said longitudinal axis of said bale carrier;

a chain (15) with an associated drive mechanism to move bales along the carrier.

Eichenberger further teach other undisclosed attachment schemes where the arm may

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be mounted for reorientation of the bales, they do not teach the grasping means as pivoting about an axis perpendicular to the longitudinal axis of the bale carrier.

Warburton et al. teaches a bale carrier with an articulated arm comprising :

a first arm (32) pivotally attached to the bale carrier;

a grasper for picking up hay bales;

wherein said grasper pivots about an axis (54) that is perpendicular to the bed of said bale carriers longitudinal axis;

a chain system for moving bales along the longitudinal axis of the bale carrier.

Davina US 5,725,346 teaches a hay loading trailer comprising:

a trailer (12) for holding a plurality of hay bales;

a grasping arm (24) for picking up said bales from a ground surface;

said arm pivotally mounted such that its axis of rotation is perpendicular to the longitudinal axis of the trailer;

support legs (170) for stabilizing the trailer during loading of the hay bales.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the carrier taught by Graham with a lifting arm as taught by Eichenberger in order to place the bales as desired on the carrier and to pivot the grasper as taught by Warburton et al. in order to easily reposition the bales being loaded onto the bale carrier and to also provide stabilizers as taught by Davina in order to help prevent tipping of the device during loading.

***Response to Amendment***

The amendments filed on December 21, 2005 have been entered into the record.

***Response to Arguments***

Applicant's arguments with respect to claims 1,10 have been considered but are moot in view of the new ground(s) of rejection. Regarding the pivoting of the grasping arm the applicant is incorrect in their reading of the references. The Warburton reference has a grasping arm comprising elements (50,62 and 78) of which all pivot about axis 54 which is perpendicular to the axis of arm member (32) further grasping means (78) also pivots about an axis perpendicular to the longitudinal axis of the trailer. As such the limitations as written are met by the references.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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